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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,376	05/15/2001	William Gibbens Redmann		3324

7590 04/28/2006
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EXAMINER

DIXON, THOMAS A

ART UNIT PAPER NUMBER

3639

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,376

Applicant(s)

REDMANN ET AL.

Examiner

Thomas A. Dixon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,5,7,9,13,25,28,29,45,47,48,54,58,60,61,64,67,72,75-77,79,83 and 87 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continuation of Disposition of Claims:

Claims pending in the application are 4,5,7,9,11,13,25,28,29,45,47,48,54,58,60,61,64,67,72,75-77,79,83 and 87.

Continuation of Disposition of Claims:

Claims withdrawn from consideration are 8,10,12,14-24,26,27,30-44,46,49-53,55-57,59,62,63,65,66,68-71,73,74,78,80-82,84-86 and 88-169.

DETAILED ACTION

1. Applicant's reply of 1-30-06 has been considered, but is not convincing.
2. Applicant's amendment was non-compliant with regard to the withdrawal of non-selected claims and the status indicators as such. As applicant is pro-se, and the response appears to be bona fide, a notice of non-compliant amendment was not issued, but the non-selected claims have been withdrawn from consideration and are required to be cancelled in response to this action.
3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 29, 48, 64, 72, 75, 76 and 77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claim 29 is confusing. Step d) of claim 4 appears to select at least one of the attractions (first attractions, assumed to be a list of available attractions) to create a second set of attractions (assumed to be the itinerary, with at least one item). Claim 29 attempts to further define step d), but the phrases "earlier scheduled time" "later schedule time" are unclear as no times have been associated with attractions to this point, just a very broad "data" corresponding to a first attraction of said second set of attractions." It appears that this claims may be adding a second item to the itinerary taking time into consideration, but it is unclear.

As per Claims 48, 64, 72, 75, 77.

The letter designations of the steps are confusing in that the steps a-f are in claim 4, but claims that depend directly from claim 4 contain steps which are far removed (alphabetically) from f, which seems to imply missing steps.

As per Claims 72.

The phrase "directed demand" is unclear. The phrase "directed demand" lacks antecedent basis.

As per Claim 76.

The phrases "directed demand" and "modes in which other parties gather" is unclear. The phrase "directed demand" lacks antecedent basis

As per Claim 77.

The term "a third set of messages" and "fourth set of messages" are confusing as no 1st or 2nd sets of messages have been introduced.

is the phrase "modes in which other parties gather" is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 4, 5, 7, 9, 13, 25, 28-29, 45, 47-48, 54, 60-61, 64, 67, 72, 75, 77, 79, 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Waytena et al (5,978,770).

As per Claim 4.

Waytena et al ('770) discloses:

providing data regarding a first set of attractions, see 2E;

gathering information about said party, at least a portion of said information distinguishing among said first set of attractions with respect to said data, see 2A and 5A;

selecting said second set of attractions from said first set of transactions for which said data substantially matches with said information, see figure 1 (104) and figure 7;

providing a presentation means able to receive said itinerary from said computer see figure 1 (102) and 5D (545);

presenting said itinerary to said party, see figure 1 (102) and 5D (545);

whereby said itinerary is customized for said party, see figure 5D (545).

As per Claim 5.

Waytena et al ('770) further discloses preferences, see column 7, lines 9-31.

As per Claim 7.

Waytena et al ('770) further discloses attributes of the party, see column 7, lines 9-31.

As per Claim 9.

Waytena et al ('770) further discloses the aversion attribute (age), see column 7, lines 9-31.

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As per Claim 13.

Waytena et al ('770) further discloses a privilege of the party, see column 20, lines 51-55.

As per Claim 25.

Waytena et al ('770) further discloses a schedule time corresponding to a first attraction of said second set of attractions and adds said scheduled time in association with said first attraction to said itinerary, see column 12, lines 25-29.

As per Claim 28.

Waytena et al ('770) further discloses said party and a second party are part of a group and selecting a schedule substantially equal, see figure 5B.

As per Claim 29.

Waytena et al ('770) further discloses said scheduled time being selected so that said later scheduled time is at least equal to said earlier schedule time plus a time required between attractions, see column 23, lines 3-24.

As per Claim 45.

Waytena et al ('770) further discloses the itinerary interruptions due to unforeseen circumstances and the attraction computer sending a potential substitute reservation time for the attraction, see column 3, lines 29-35, and the party forgoing the remaining portion, see column 3, line 35 (cancel the reservation).

As per Claim 47.

Waytena et al ('770) further discloses the attractions comprise rides and shows, see figure 5A.

As per Claim 48.

Waytena et al ('770) further discloses access to the attractions, see column 19, lines 9-19.

As per Claim 54.

Waytena et al ('770) further discloses a hand-held computer, see figure 1a (102).

As per Claim 60.

Waytena et al ('770) further discloses a display, see figure 1a (109).

As per Claim 61.

Waytena et al ('770) further discloses audible presentation, see column 5, lines 65-66.

As per Claim 64.

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Waytena et al ('770) further discloses a reservation availability checking, see figure 6 (606) and column 12, lines 30-64.

As per Claim 67.

Waytena et al ('770) further discloses if there is excessive demand, the attraction is less likely to be chosen, see column 20, lines 57-64.

As per Claim 72.

Waytena et al ('770) further discloses recording the itinerary in memory, see column 9, lines 21-28.

As per Claim 75.

Waytena et al ('770) further discloses a making a reservation, see figure 6 (603-605) and column 9, lines 1-32.

As per Claim 77.

Waytena et al ('770) further discloses a marketing message/recommendation, see figure 5c (561).

As per Claim 79.

Waytena et al ('770) further discloses a decision making software, see column 12, lines 30-64.

As per Claim 83.

Waytena et al ('770) further discloses operating hours, cycle capacity, estimated throughput, current throughput, today's throughput, see figure 2E.

As per Claim 87.

Waytena et al ('770) discloses:

data regarding a first set of attractions, see 2E;

information about said party, at least a portion of said information distinguishing among said first set of attractions with respect to said data, see 2A and 5A;

a computer having access to said data and said information, said computer having software operable to select said second set of attractions from said first set of transactions for which said data substantially matches with said information, see figure 1 (104) and figure 7;

a presentation means in communication with said computer, said presentation means able to receive said itinerary from said computer and present said itinerary to said party, see figure 1 (102) and 5D (545);

whereby said itinerary is customized for said party, see figure 5D (545).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Waytena et al (5,978,770) in view of Laval et al (6,173,209) or Lancos et al (6,873,260).

As per Claim 58.

Waytena et al ('770) further discloses printed numbered tickets, see column 1, lines 58-61, but does not specifically disclose that the presentation means is a printer.

Laval et al ('209) teaches the printing of passes at a kiosk, see column 3, line 61 – column 4, line 7 and Lancos et al ('260) figure 7 (708) for the benefit of providing proof of entitlement for entry.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide a printer as a presentation means for the benefit of providing proof of entitlement for entry.

7. Claims 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Waytena et al (5,978,770) in view of Murashita et al (2002/0062236).

As per Claim 76.

Waytena et al ('770) does not specifically disclose the software applies a perturbation to a desirability of a first attraction of said first set of attractions, said perturbation producing a different result for said second set,

whereby directed demand to said first attraction is redistributed to mitigate at least on selected from the group consisting of underutilization or excessive demand for said first attraction and modes in which parties gather.

Murashita et al ('236) teaches providing an alternative (redistribution) to mitigate excessive demand (all seats now occupied), see figure 1e, for the benefit of redistributing diners from events with excessive demand to underutilized events.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide an alternative event for the benefit of redistributing diners from events with excessive demand to underutilized events.

Allowable Subject Matter

8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As per Claim 11.

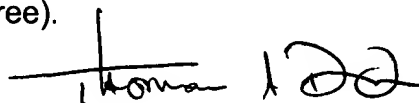
Waytena et al ('770) further discloses the aversion attribute (age), see column 7, lines 9-31, but does not specifically disclose a nullifying preference of said party, wherein said data distinguishes a portion of said first set of attractions as being less desirable with respect to said aversion attribute unless said corresponding nullifying preference is present and wherein in step d) at least on attraction from said portion of said first set of attractions is selected for said second set of attractions.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas A. Dixon